

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 663

Introduced by Assembly Member Gomez

February 21, 2013

An act to amend Sections 1562.3 and 1569.616 of the Health and Safety Code, and to amend Section 9719 of the Welfare and Institutions Code, relating to ~~residential~~ care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 663, as amended, Gomez. ~~Residential care facilities: administrators:~~ *Care facilities:* training requirements.

Existing law requires the administrator of an adult residential care facility or an administrator of a residential care facility for the elderly to undergo training, including specified subjects, including, but not limited to, business operations and the psychosocial needs of the facility residents. Existing law also requires the Office of the State Long-Term Care Ombudsman to sponsor training of ombudsman, to be completed prior to certification as an ombudsman.

This bill would require the administrator *and ombudsman* training to include training in cultural competency and sensitivity in *issues relating to the underserved* aging lesbian, gay, bisexual, and transgender ~~minority~~ issues and would also require ombudsman training to include those ~~issues~~ *community*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1562.3 of the Health and Safety Code is amended to read:

1562.3. (a) The Director of Social Services, in consultation with the Director of Health Care Services and the Director of Developmental Services, shall establish a training program to ensure that licensees, operators, and staffs of adult residential care facilities, as defined in paragraph (1) of subdivision (a) of Section 1502, have appropriate training to provide the care and services for which a license or certificate is issued. The training program shall be developed in consultation with provider organizations.

(b) (1) An administrator of an adult residential care facility, as defined in paragraph (1) of subdivision (a) of Section 1502, shall successfully complete a department-approved certification program pursuant to subdivision (c) prior to employment.

(2) In those cases where the individual is both the licensee and the administrator of a facility, the individual shall comply with both the licensee and administrator requirements of this section.

(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility.

(4) The licensee shall notify the department within 30 days of any change in administrators.

(c) (1) The administrator certification program shall require a minimum of 35 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of the type of facility for which the applicant will be an administrator.

(B) Business operations.

(C) Management and supervision of staff.

(D) Psychosocial needs of the facility residents.

(E) Community and support services.

(F) Physical needs for facility residents.

(G) Use, misuse, and interaction of medication commonly used by facility residents.

(H) Resident admission, retention, and assessment procedures.

(I) Nonviolent crisis intervention for administrators.

(J) Cultural competency ~~or~~ *and* sensitivity in *issues relating to the underserved* aging lesbian, gay, bisexual, and transgender ~~minority issues~~ *community*.

(2) The requirement for 35 hours of classroom instruction pursuant to this subdivision shall not apply to persons who were employed as administrators prior to July 1, 1996. A person holding the position of administrator of an adult residential facility on June 30, 1996, shall file a completed application for certification with the department on or before April 1, 1998. In order to be exempt from the 35-hour training program and the test component, the application shall include documentation showing proof of continuous employment as the administrator of an adult residential facility between, at a minimum, June 30, 1994, and June 30, 1996. An administrator of an adult residential facility who became certified as a result of passing the department-administered challenge test, that was offered between October 1, 1996, and December 23, 1996, shall be deemed to have fulfilled the requirements of this paragraph.

(3) Unless an extension is granted to the applicant by the department, an applicant for an administrator's certificate shall, within 60 days of the applicant's completion of classroom instruction, pass the written test provided in this section.

(d) The department shall not begin the process of issuing a certificate until receipt of all of the following:

(1) A certificate of completion of the administrator training required pursuant to this chapter.

(2) The fee required for issuance of the certificate. A fee of one hundred dollars (\$100) shall be charged by the department to cover the costs of processing the application for certification.

(3) Documentation from the applicant that he or she has passed the written test.

(4) Submission of fingerprints. The department and the Department of Justice shall expedite the criminal record clearance for holders of certificates of completion. The department may waive the submission for those persons who have a current clearance on file.

(e) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator of an adult residential facility. A person willfully making any false

1 representation as being a certified administrator is guilty of a
2 misdemeanor.

3 (f) (1) Certificates issued under this section shall be renewed
4 every two years and renewal shall be conditional upon the
5 certificate holder submitting documentation of completion of 40
6 hours of continuing education related to the core of knowledge
7 specified in subdivision (c). No more than one-half of the required
8 40 hours of continuing education necessary to renew the certificate
9 may be satisfied through online courses. All other continuing
10 education hours shall be completed in a classroom setting. For
11 purposes of this section, an individual who is an adult residential
12 facility administrator and who is required to complete the
13 continuing education hours required by the regulations of the State
14 Department of Developmental Services, and approved by the
15 regional center, shall be permitted to have up to 24 of the required
16 continuing education course hours credited toward the 40-hour
17 continuing education requirement of this section. Community
18 college course hours approved by the regional centers shall be
19 accepted by the department for certification.

20 (2) Every licensee and administrator of an adult residential
21 facility is required to complete the continuing education
22 requirements of this subdivision.

23 (3) Certificates issued under this section shall expire every two
24 years, on the anniversary date of the initial issuance of the
25 certificate, except that any administrator receiving his or her initial
26 certification on or after January 1, 1999, shall make an irrevocable
27 election to have his or her recertification date for any subsequent
28 recertification either on the date two years from the date of issuance
29 of the certificate or on the individual's birthday during the second
30 calendar year following certification. The department shall send
31 a renewal notice to the certificate holder 90 days prior to the
32 expiration date of the certificate. If the certificate is not renewed
33 prior to its expiration date, reinstatement shall only be permitted
34 after the certificate holder has paid a delinquency fee equal to three
35 times the renewal fee and has provided evidence of completion of
36 the continuing education required.

37 (4) To renew a certificate, the certificate holder shall, on or
38 before the certificate expiration date, request renewal by submitting
39 to the department documentation of completion of the required
40 continuing education courses and pay the renewal fee of one

1 hundred dollars (\$100), irrespective of receipt of the department's
2 notification of the renewal. A renewal request postmarked on or
3 before the expiration of the certificate is proof of compliance with
4 this paragraph.

5 (5) A suspended or revoked certificate is subject to expiration
6 as provided for in this section. If reinstatement of the certificate
7 is approved by the department, the certificate holder, as a condition
8 precedent to reinstatement, shall submit proof of compliance with
9 paragraphs (1) and (2) of subdivision (f) and shall pay a fee in an
10 amount equal to the renewal fee, plus the delinquency fee, if any,
11 accrued at the time of its revocation or suspension. Delinquency
12 fees, if any, accrued subsequent to the time of its revocation or
13 suspension and prior to an order for reinstatement, shall be waived
14 for one year to allow the individual sufficient time to complete the
15 required continuing education units and to submit the required
16 documentation. Individuals whose certificates will expire within
17 90 days after the order for reinstatement may be granted a
18 three-month extension to renew their certificates during which
19 time the delinquency fees shall not accrue.

20 (6) A certificate that is not renewed within four years after its
21 expiration shall not be renewed, restored, reissued, or reinstated
22 except upon completion of a certification training program, passing
23 any test that may be required of an applicant for a new certificate
24 at that time, and paying the appropriate fees provided for in this
25 section.

26 (7) A fee of twenty-five dollars (\$25) shall be charged for the
27 reissuance of a lost certificate.

28 (8) A certificate holder shall inform the department of his or
29 her employment status within 30 days of any change.

30 (g) The certificate shall be considered forfeited under the
31 following conditions:

32 (1) The administrator has had a license revoked, suspended, or
33 denied as authorized under Section 1550.

34 (2) The administrator has been denied employment, residence,
35 or presence in a facility based on action resulting from an
36 administrative hearing pursuant to Section 1522 or Section 1558.

37 (h) (1) The department, in consultation with the State
38 Department of Health Care Services and the State Department of
39 Developmental Services, shall establish, by regulation, the program
40 content, the testing instrument, the process for approving

1 certification training programs, and criteria to be used in
2 authorizing individuals, organizations, or educational institutions
3 to conduct certification training programs and continuing education
4 courses. These regulations shall be developed in consultation with
5 provider organizations, and shall be made available at least six
6 months prior to the deadline required for certification. The
7 department may deny vendor approval to any agency or person in
8 any of the following circumstances:

9 (A) The applicant has not provided the department with evidence
10 satisfactory to the department of the ability of the applicant to
11 satisfy the requirements of vendorization set out in the regulations
12 adopted by the department pursuant to subdivision (i).

13 (B) The applicant person or agency has a conflict of interest in
14 that the person or agency places its clients in adult residential
15 facilities.

16 (C) The applicant public or private agency has a conflict of
17 interest in that the agency is mandated to place clients in adult
18 residential facilities and to pay directly for the services. The
19 department may deny vendorization to this type of agency only as
20 long as there are other vendor programs available to conduct the
21 certification training programs and conduct education courses.

22 (2) The department may authorize vendors to conduct the
23 administrator's certification training program pursuant to provisions
24 set forth in this section. The department shall conduct the written
25 test pursuant to regulations adopted by the department.

26 (3) The department shall prepare and maintain an updated list
27 of approved training vendors.

28 (4) The department may inspect certification training programs
29 and continuing education courses, including online courses, at no
30 charge to the department, to determine if content and teaching
31 methods comply with regulations. If the department determines
32 that any vendor is not complying with the intent of this section,
33 the department shall take appropriate action to bring the program
34 into compliance, which may include removing the vendor from
35 the approved list.

36 (5) The department shall establish reasonable procedures and
37 timeframes not to exceed 30 days for the approval of vendor
38 training programs.

39 (6) The department may charge a reasonable fee, not to exceed
40 one hundred fifty dollars (\$150) every two years to certification

1 program vendors for review and approval of the initial 35-hour
2 training program pursuant to subdivision (c). The department may
3 also charge the vendor a fee not to exceed one hundred dollars
4 (\$100) every two years for the review and approval of the
5 continuing education courses needed for recertification pursuant
6 to this subdivision.

7 (7) (A) A vendor of online programs for continuing education
8 shall ensure that each online course contains all of the following:

9 (i) An interactive portion in which the participant receives
10 feedback, through online communication, based on input from the
11 participant.

12 (ii) Required use of a personal identification number or personal
13 identification information to confirm the identity of the participant.

14 (iii) A final screen displaying a printable statement, to be signed
15 by the participant, certifying that the identified participant
16 completed the course. The vendor shall obtain a copy of the final
17 screen statement with the original signature of the participant prior
18 to the issuance of a certificate of completion. The signed statement
19 of completion shall be maintained by the vendor for a period of
20 three years and be available to the department upon demand. Any
21 person who certifies as true any material matter pursuant to this
22 clause that he or she knows to be false is guilty of a misdemeanor.

23 (B) Nothing in this subdivision shall prohibit the department
24 from approving online programs for continuing education that do
25 not meet the requirements of subparagraph (A) if the vendor
26 demonstrates to the department's satisfaction that, through
27 advanced technology, the course and the course delivery meet the
28 requirements of this section.

29 (i) The department shall establish a registry for holders of
30 certificates that shall include, at a minimum, information on
31 employment status and criminal record clearance.

32 SEC. 2. Section 1569.616 of the Health and Safety Code is
33 amended to read:

34 1569.616. (a) (1) An administrator of a residential care facility
35 for the elderly shall be required to successfully complete a
36 department-approved certification program prior to employment.

37 (2) In those cases where the individual is both the licensee and
38 the administrator of a facility, or a licensed nursing home
39 administrator, the individual shall comply with the requirements

1 of this section unless he or she qualifies for one of the exemptions
2 provided for in subdivision (b).

3 (3) Failure to comply with this section shall constitute cause for
4 revocation of the license of the facility where an individual is
5 functioning as the administrator.

6 (4) The licensee shall notify the department within 30 days of
7 any change in administrators.

8 (b) Individuals seeking exemptions under paragraph (2) of
9 subdivision (a) shall meet the following criteria and fulfill the
10 required portions of the certification program, as the case may be:

11 (1) An individual designated as the administrator of a residential
12 care facility for the elderly who holds a valid license as a nursing
13 home administrator issued in accordance with Chapter 2.35
14 (commencing with Section 1416) of Division 2 shall be required
15 to complete the areas in the uniform core of knowledge required
16 by this section that pertain to the law, regulations, policies, and
17 procedural standards that impact the operations of residential care
18 facilities for the elderly, the use, misuse, and interaction of
19 medication commonly used by the elderly in a residential setting,
20 and resident admission, retention, and assessment procedures,
21 equal to 12 hours of classroom instruction. An individual meeting
22 the requirements of this paragraph shall not be required to take a
23 written test.

24 (2) In those cases where the individual was both the licensee
25 and administrator on or before July 1, 1991, the individual shall
26 be required to complete all the areas specified for the certification
27 program, but shall not be required to take the written test required
28 by this section. Those individuals exempted from the written test
29 shall be issued a conditional certification that is valid only for the
30 administrator of the facility for which the exemption was granted.

31 (A) As a condition to becoming an administrator of another
32 facility, the individual shall be required to pass the written test
33 provided for in this section.

34 (B) As a condition to applying for a new facility license, the
35 individual shall be required to pass the written test provided for
36 in Section 1569.23.

37 (c) (1) The administrator certification program shall require a
38 minimum of 40 hours of classroom instruction that provides
39 training on a uniform core of knowledge in each of the following
40 areas:

1 (A) Laws, regulations, and policies and procedural standards
2 that impact the operations of residential care facilities for the
3 elderly.

4 (B) Business operations.

5 (C) Management and supervision of staff.

6 (D) Psychosocial needs of the elderly.

7 (E) Community and support services.

8 (F) Physical needs for elderly persons.

9 (G) Use, misuse, and interaction of medication commonly used
10 by the elderly.

11 (H) Resident admission, retention, and assessment procedures.

12 (I) Training focused specifically on serving clients with
13 dementia. This training shall be for at least four hours.

14 (J) Cultural competency *and sensitivity in issues relating to the*
15 *underserved* aging lesbian, gay, bisexual, and transgender ~~minority~~
16 *issues community*.

17 (2) Individuals applying for certification under this section shall
18 successfully complete an approved certification program, pass a
19 written test administered by the department within 60 days of
20 completing the program, and submit the documentation required
21 by subdivision (d) to the department within 30 days of being
22 notified of having passed the test. The department may extend
23 these time deadlines for good cause. The department shall notify
24 the applicant of his or her test results within 30 days of
25 administering the test.

26 (d) The department shall not begin the process of issuing a
27 certificate until receipt of all of the following:

28 (1) A certificate of completion of the administrator training
29 required pursuant to this chapter.

30 (2) The fee required for issuance of the certificate. A fee of one
31 hundred dollars (\$100) shall be charged by the department to cover
32 the costs of processing the application for certification.

33 (3) Documentation of passing the written test or of qualifying
34 for an exemption pursuant to subdivision (b).

35 (4) Submission of fingerprints. The department and the
36 Department of Justice shall expedite the criminal record clearance
37 for holders of certificates of completion. The department may
38 waive the submission for those persons who have a current criminal
39 record clearance on file.

1 (e) It shall be unlawful for a person not certified under this
2 section to hold himself or herself out as a certified administrator
3 of a residential care facility for the elderly. Any person willfully
4 making a false representation as being a certified administrator is
5 guilty of a misdemeanor.

6 (f) (1) Certificates issued under this section shall be renewed
7 every two years and renewal shall be conditional upon the
8 certificate holder submitting documentation of completion of 40
9 hours of continuing education related to the core of knowledge
10 specified in paragraph (1) of subdivision (c). No more than one-half
11 of the required 40 hours of continuing education necessary to renew
12 the certificate may be satisfied through online courses. All other
13 continuing education hours shall be completed in a classroom
14 setting. For purposes of this section, individuals who hold a valid
15 license as a nursing home administrator issued in accordance with
16 Chapter 2.35 (commencing with Section 1416) of Division 2 of
17 the Health and Safety Code and meet the requirements of paragraph
18 (1) of subdivision (b) shall only be required to complete 20 hours
19 of continuing education.

20 (2) Every certified administrator of a residential care facility
21 for the elderly is required to renew his or her certificate and shall
22 complete the continuing education requirements of this subdivision
23 whether he or she is certified according to subdivision (a) or (b).
24 At least eight hours of the 40-hour continuing education
25 requirement for a certified administrator of a residential care facility
26 for the elderly shall include instruction on serving clients with
27 dementia, including, but not limited to, instruction related to direct
28 care, physical environment, and admissions procedures and
29 assessment.

30 (3) Certificates issued under this section shall expire every two
31 years, on the anniversary date of the initial issuance of the
32 certificate, except that any administrator receiving his or her initial
33 certification on or after January 1, 1999, shall make an irrevocable
34 election to have his or her recertification date for any subsequent
35 recertification either on the date two years from the date of issuance
36 of the certificate or on the individual's birthday during the second
37 calendar year following certification. The department shall send
38 a renewal notice to the certificate holder 90 days prior to the
39 expiration date of the certificate. If the certificate is not renewed
40 prior to its expiration date, reinstatement shall only be permitted

1 after the certificate holder has paid a delinquency fee equal to three
2 times the renewal fee and has provided evidence of completion of
3 the continuing education required.

4 (4) To renew a certificate, the certificate holder shall, on or
5 before the certificate expiration date, request renewal by submitting
6 to the department documentation of completion of the required
7 continuing education courses and pay the renewal fee of one
8 hundred dollars (\$100), irrespective of receipt of the department's
9 notification of the renewal. A renewal request postmarked on or
10 before the expiration of the certificate is proof of compliance with
11 this paragraph.

12 (5) A suspended or revoked certificate is subject to expiration
13 as provided for in this section. If reinstatement of the certificate
14 is approved by the department, the certificate holder, as a condition
15 precedent to reinstatement, shall pay a fee in an amount equal to
16 the renewal fee, plus the delinquency fee, if any, accrued at the
17 time of its revocation or suspension.

18 (6) A certificate that is not renewed within four years after its
19 expiration shall not be renewed, restored, reissued, or reinstated
20 except upon completion of a certification program, passing any
21 test that may be required of an applicant for a new certificate at
22 that time, and paying the appropriate fees provided for in this
23 section.

24 (7) A fee of twenty-five dollars (\$25) shall be charged for the
25 reissuance of a lost certificate.

26 (8) A certificate holder shall inform the department of his or
27 her employment status within 30 days of any change.

28 (g) The department may revoke a certificate issued under this
29 section for any of the following:

30 (1) Procuring a certificate by fraud or misrepresentation.

31 (2) Knowingly making or giving any false statement or
32 information in conjunction with the application for issuance of a
33 certificate.

34 (3) Criminal conviction, unless an exemption is granted pursuant
35 to Section 1569.17.

36 (h) The certificate shall be considered forfeited under either of
37 the following conditions:

38 (1) The administrator has had a license revoked, suspended, or
39 denied as authorized under Section 1569.50.

1 (2) The administrator has been denied employment, residence,
2 or presence in a facility based on action resulting from an
3 administrative hearing pursuant to Section 1569.58.

4 (i) (1) The department shall establish, by regulation, the
5 program content, the testing instrument, the process for approving
6 certification programs, and criteria to be used in authorizing
7 individuals, organizations, or educational institutions to conduct
8 certification programs and continuing education courses. These
9 regulations shall be developed in consultation with provider and
10 consumer organizations, and shall be made available at least six
11 months prior to the deadline required for certification. The
12 department may deny vendor approval to any agency or person
13 that has not provided satisfactory evidence of their ability to meet
14 the requirements of vendorization set out in the regulations adopted
15 pursuant to subdivision (j).

16 (2) (A) A vendor of online programs for continuing education
17 shall ensure that each online course contains all of the following:

18 (i) An interactive portion where the participant receives
19 feedback, through online communication, based on input from the
20 participant.

21 (ii) Required use of a personal identification number or personal
22 identification information to confirm the identity of the participant.

23 (iii) A final screen displaying a printable statement, to be signed
24 by the participant, certifying that the identified participant
25 completed the course. The vendor shall obtain a copy of the final
26 screen statement with the original signature of the participant prior
27 to the issuance of a certificate of completion. The signed statement
28 of completion shall be maintained by the vendor for a period of
29 three years and be available to the department upon demand. Any
30 person who certifies as true any material matter pursuant to this
31 section that he or she knows to be false is guilty of a misdemeanor.

32 (B) Nothing in this subdivision shall prohibit the department
33 from approving online programs for continuing education that do
34 not meet the requirements of subparagraph (A) if the vendor
35 demonstrates to the department's satisfaction that, through
36 advanced technology, the course and the course delivery meet the
37 requirements of this section.

38 (3) The department may authorize vendors to conduct the
39 administrator certification training program pursuant to provisions

1 set forth in this section. The department shall conduct the written
2 test pursuant to regulations adopted by the department.

3 (4) The department shall prepare and maintain an updated list
4 of approved training vendors.

5 (5) The department may inspect training programs, continuing
6 education courses, and online courses, at no charge to the
7 department, in order to determine if content and teaching methods
8 comply with paragraphs (1) and (2), if applicable, and with
9 regulations. If the department determines that a vendor is not
10 complying with the intent of this section, the department shall take
11 appropriate action to bring the program into compliance, which
12 may include removing the vendor from the approved list.

13 (6) The department shall establish reasonable procedures and
14 timeframes, not to exceed 30 days, for the approval of vendor
15 training programs.

16 (7) The department may charge a reasonable fee, not to exceed
17 one hundred fifty dollars (\$150) every two years, to certification
18 program vendors for review and approval of the initial 40-hour
19 training program pursuant to subdivision (c). The department may
20 also charge the vendor a fee, not to exceed one hundred dollars
21 (\$100) every two years, for the review and approval of the
22 continuing education courses needed for recertification pursuant
23 to this subdivision.

24 (j) This section shall be operative upon regulations being
25 adopted by the department to implement the administrator
26 certification program as provided for in this section.

27 (k) The department shall establish a registry for holders of
28 certificates that shall include, at a minimum, information on
29 employment status and criminal record clearance.

30 (l) Notwithstanding any law to the contrary, vendors approved
31 by the department who exclusively provide either initial or
32 continuing education courses for certification of administrators of
33 a residential care facility for the elderly, as defined in subdivision
34 (k) of Section 1569.2, a group home facility, as defined by
35 regulations of the department, or an adult residential care facility,
36 as defined by regulations of the department, shall be regulated
37 solely by the department pursuant to this chapter. No other state
38 or local governmental entity shall be responsible for regulating
39 the activity of those vendors.

SEC. 3. Section 9719 of the Welfare and Institutions Code is amended to read:

9719. (a) (1) The office shall sponsor a training of representatives of approved organizations at least twice each year. The office shall provide training to these representatives as appropriate. Prior to the certification of an ombudsman by the office, individuals shall meet both of the following requirements:

(A) Have a criminal offender record clearance conducted by the State Department of Social Services. A clearance pursuant to Section 1569.17 of the Health and Safety Code shall constitute clearances for the purpose of entry to any long-term care facility.

(B) Have received a minimum of 36 hours of certification training that is approved by the office and offered by an approved organization, which shall include training on cultural competency ~~or~~ *and* sensitivity in *issues relating to the underserved aging lesbian, gay, bisexual, and transgender-minority issues community.*

(2) Upon receipt of an applicant's criminal record clearance and acceptance by the office, the office shall issue a card identifying the bearer as a certified ombudsman. Each ombudsman shall receive a minimum of 12 hours of additional training annually.

(b) (1) The department shall contract with the State Department of Social Services to conduct a criminal offender record information search, pursuant to Section 1569.17 of the Health and Safety Code, for each applicant seeking certification as an ombudsman. The State Department of Social Services shall notify the individual and the office of the individual's clearance or denial.

(2) An applicant for certification as an ombudsman shall not be responsible for any costs associated with transmitting the fingerprint images and related information or conducting criminal record clearances.

(c) Nothing in this section shall be construed to prohibit the Department of Justice from assessing a fee pursuant to Section 11105 of the Penal Code to cover the cost of searching for or furnishing summary criminal offender record information.